

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BRUCE KAATZ,

Plaintiff,

v.

Case No. 23-10604
Hon. Laurie J. Michelson

KINGSBROOK M.H.C., LLC,
KINGSBROOK MHC-MICHIGAN
LLC, MADELEINE STANFIELD,
KELLY MAGAR, and HEATHER
VIEHMAN,

Defendants.

/

ANSWER TO COMPLAINT

NOW COME Defendants, KINGSBROOK M.H.C., LLC, KINGSBROOK
MHC-MICHIGAN LLC, and HEATHER VIEHMAN (jointly, "Defendants"), by
their attorneys, SWISTAK LEVINE, P.C., and for their Answer to Plaintiff's
Complaint, represent as follows:

GENERAL ALLEGATIONS

The Parties

1. Answering Paragraph 1, Defendants admit the allegations set forth
therein as true.

2. Answering Paragraph 2, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs. In further answer, Defendants admit that Defendant Madeleine Stanfield is a natural person and former employee of Defendants.

3. Answering Paragraph 3, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs. In further answer, Defendants admit that Defendant Kelly Magar is a natural person and former employee of Defendants.

4. Answering Paragraph 4, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs. In further answer, Defendants admit that Defendant Heather Viehman is a natural person and an employee of Defendants.

5. Answering Paragraph 5, Defendants admit that Kingsbrook M.H.C., LLC is a limited Liability Company in the state of Michigan, but neither admit nor deny that it is not in good standing.

6. Answering Paragraph 6, Defendants admit that Kingsbrook M.H.C., LLC conducts business as Kingsbrook Estates, LLC, but neither admit nor deny that the other allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the trust or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

7. Answering Paragraph 7, Defendants admit the allegations set forth therein as true.

8. Answering Paragraph 8, Defendants admit that Kingsbrook MHC-Michigan, LLC conducts business as Kingsbrook Estates, MHC LLC, but neither admit nor deny that the other allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the trust or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

9. Answering Paragraph 9, Defendants admit the allegations set forth therein as true.

10. Answering Paragraph 10, Defendants admit the allegations set forth therein as true.

Jurisdiction and Venue

11. Answering Paragraph 11, Defendants admit the allegations set forth therein as true.
12. Answering Paragraph 12, Defendants assert no response is necessary.
13. Answering Paragraph 13, Defendants assert no response is necessary.
14. Answering Paragraph 14, Defendants assert no response is necessary.
15. Answering Paragraph 15, Defendants admit the allegations set forth therein as true.
16. Answering Paragraph 16, Defendants admit the allegations set forth therein as true.
17. Answering Paragraph 17, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.
18. Answering Paragraph 18, Defendants assert no response is necessary.
19. Answering Paragraph 19, Defendants assert no response is necessary.
20. Answering Paragraph 20, Defendants assert no response is necessary.
21. Answering Paragraph 21, Defendants assert no response is necessary.
22. Answering Paragraph 22, Defendants assert no response is necessary.

23. Answering Paragraph 23, Defendants admit the allegations set forth therein as true.

24. Answering Paragraph 24, Defendants admit the allegations set forth therein as true.

25. Answering Paragraph 25, Defendants admit the allegations set forth therein as true.

26. Answering Paragraph 26, Defendants admit the allegations set forth therein as true.

Plaintiff's Reasonable Accommodation Request

27. Answering Paragraph 27, Defendants admit the allegations set forth therein as true.

28. Answering Paragraph 28, Defendants deny allegations set forth therein for the reason that they are untrue.

29. Answering Paragraph 29, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

30. Answering Paragraph 30, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or

information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

31. Answering Paragraph 31, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

32. Answering Paragraph 32, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

33. Answering Paragraph 33, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

34. Answering Paragraph 34, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

35. Answering Paragraph 35, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or

information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

36. Answering Paragraph 36, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

37. Answering Paragraph 37, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

38. Answering Paragraph 38, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

39. Answering Paragraph 39, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

40. Answering Paragraph 40, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or

information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

41. Answering Paragraph 41, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

42. Answering Paragraph 42, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

43. Answering Paragraph 43, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

44. Answering Paragraph 44, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

45. Answering Paragraph 45, Defendants admit the allegations set forth therein as true.

46. Answering Paragraph 46, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

47. Answering Paragraph 47, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

48. Answering Paragraph 48, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

49. Answering Paragraph 49, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

50. Answering Paragraph 50, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

51. Answering Paragraph 51, Defendants admit the allegations set forth therein as true.

52. Answering Paragraph 52, Defendants admit the allegations that Plaintiff texted Defendants about the violation and the maintenance man's alleged use of vulgar language and stating he had a disability but deny that Plaintiff "indicat[ed] that he needed an accommodation for his mobility-related disabilities."

**Defendants' Denial of the Reasonable Accommodation Request and
Retaliation against Plaintiff**

53. Answering Paragraph 53, Defendants admit the allegations set forth therein as true that double parking is not allowed.

54. Answering Paragraph 54, Defendants admit the allegations set forth therein as true.

55. Answering Paragraph 55, Defendants admit that Plaintiff emailed a request for an accommodation, but the exact date of receipt is unknown.

56. Answering Paragraph 56, Defendants admit that Exhibit 1 was received, but the exact date of receipt is unknown.

57. Answering Paragraph 57, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or

information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

58. Answering Paragraph 58, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

59. Answering Paragraph 59, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

60. Answering Paragraph 60, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

61. Answering Paragraph 61, Defendants admit that it cited Plaintiff for another double-parking violation on October 31, 2022.

62. Answering Paragraph 62, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

63. Answering Paragraph 63, Defendants admit that it received a call allegedly from an attorney for Plaintiff regarding the parking violations but it is unknown who the attorney was or who they spoke with.

64. Answering Paragraph 64, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

65. Answering Paragraph 65, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs. In further answer, Defendants admit that Attorney Jarrett Levine received a letter from Plaintiff's attorney and an email from Plaintiff's attorney on November 16, 2022.

66. Answering Paragraph 66, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

67. Answering Paragraph 67, Defendants admit that Attorney Jenni Scheid contacted Plaintiff's attorney asking for time to contact Defendants to discuss the matter further.

68. Answering Paragraph 68, Defendants admit the allegations set forth therein as true.

69. Answering Paragraph 69, Defendants admits that it received Exhibit 2 on November 23, 2022.

70. Answering Paragraph 70, Defendants admit the allegations set forth therein as true.

71. Answering Paragraph 71, Defendants admit the allegations set forth therein as true.

72. Answering Paragraph 72, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

73. Answering Paragraph 73, Defendants admits that it received Exhibit 3 on December 7, 2022.

74. Answering Paragraph 74, Defendants admits that it received Exhibit 3 on December 7, 2022.

75. Answering Paragraph 75, Defendants admits that it received Exhibit 3 again on December 13, 2022.

76. Answering Paragraph 76, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

77. Answering Paragraph 77, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

78. Answering Paragraph 78, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

79. Answering Paragraph 79, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

80. Answering Paragraph 80, Defendants neither admit nor deny the allegations contained therein for the reason that they lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and, on that basis, deny the allegations and leave Plaintiff to his proofs.

COUNT I – VIOLATION OF THE FHAA

81. Answering Paragraph 81, Defendants assert no response is necessary.

82. Answering Paragraph 82, Defendants admit the allegations set forth therein as true.

83. Answering Paragraph 83, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

84. Answering Paragraph 84, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

85. Answering Paragraph 85, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

COUNT II – VIOLATION OF THE PWDCRA

86. Answering Paragraph 86, Defendants assert no response is necessary.

87. Answering Paragraph 87, Defendants admit the allegations set forth therein as true.

88. Answering Paragraph 88, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

89. Answering Paragraph 89, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

COUNT III – VIOLATION OF THE FHAA

90. Answering Paragraph 90, Defendants assert no response is necessary.

91. Answering Paragraph 91, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

92. Answering Paragraph 92, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

93. Answering Paragraph 93, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

COUNT IV – VIOLATION OF THE PWDCRA

94. Answering Paragraph 94, Defendants assert no response is necessary.

95. Answering Paragraph 95, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

96. Answering Paragraph 96, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

97. Answering Paragraph 97, Defendants deny the allegations set forth therein for the reason the allegations are untrue as pled and leave Plaintiff to his proofs.

WHEREFORE, Defendants respectfully requests that Plaintiff's Complaint be dismissed, with prejudice, or, alternatively, that a judgment of no cause of action be entered against Plaintiff and in favor of Defendants, that Defendants be awarded its costs and attorney fees incurred in the defense of this action, and that the Court award such other and further relief as it may deem just and reasonable.

AFFIRMATIVE DEFENSES

Take notice that Defendants, Defendants, KINGSBROOK M.H.C., LLC, KINGSBROOK MHC-MICHIGAN LLC, and HEATHER VIEHMAN will rely upon the following Affirmative Defenses in their defense of this action and, pursuant to Fed. R. Civ. Proc., demand that Plaintiff respond to each of these Affirmative Defenses within twenty-one days of the date of the service of these Answers and Affirmative Defenses upon Plaintiff.

1. Plaintiff has failed to state a claim upon which relief can be granted.
2. Plaintiff's requested accommodation is not reasonable in light of the facts presented to Defendants.
3. Plaintiff's claims are barred by reason of his failure to, in good faith, engage in the interactive process with Defendants in order to reach a reasonable accommodation.
4. Plaintiff's Complaint is insufficient factually and legally to entitle Plaintiff to recovery or judgment at law, in equity, in whole or in part.
5. Plaintiff's claims against Defendants are barred because the alleged conduct of Defendants did not actually, directly, or proximately cause any injury or damage to Plaintiff.

6. Defendants reserve the right to assert and rely upon additional Affirmative Defenses and /or other special or separate defenses to which it may find itself entitled upon further investigation and inquiry.

WHEREFORE, Defendants respectfully requests that Plaintiff's Complaint be dismissed, with prejudice, or, alternatively, that a judgment of no cause of action be entered against Plaintiff and in favor of Defendants, that Defendants be awarded its costs and attorney fees incurred in the defense of this action, and that the Court award such other and further relief as it may deem just and reasonable.

Respectfully submitted,

SWISTAK & LEVINE, P.C.
Attorneys for Defendants

/s/Janet Swistak
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CERTIFICATE OF SERVICE

The undersigned certified that the foregoing instrument was filed with the U.S. District Court through the ECF filing system and that all parties to the above cause were served via the ECF filing system on April 11, 2023.

Signature: /s/ Janet Swistak
Janet Swistak
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